

DJAG/1548/71-7/BAOR

Tel.: Rhine Army 2534

Office of:

The Deputy Judge Advocate General
(B.A.C.R., R.T.A. and BETFOR),
c/o Headquarters,
British Army of the Rhine,
BAOR 1.

4th August 1949

Military Governor and
Commander-in-Chief,
British Zone,
Germany.

Military Court (War Crimes) Trial
KERN WEST Case
Peter KOENEN
Hugo BODDENBERG

In your letter MG/5501/C-in-C dated 29th July you wished me to look into the cases of the above named war criminals and satisfy myself that their cases do not require review.

I do not think that there are adequate grounds for interfering with the conviction in either case.

The evidence of the eleventh prosecution witness, Frau Jansen (see pages 46 to 48), shows that BODDENBERG took an active part in the assault on the airmen. He struck one or more of them several times with his belt and was in the centre of the crowd which finally threw the airmen over the bridge.

The evidence of Frau Jansen was corroborated by the evidence of BODDENBERG himself, who admitted striking (see page 15 of the case for the defence).

In view of this evidence BODDENBERG was, in my opinion, present aiding and abetting and was legally convicted of the charge.

There was no evidence that KOENEN took any aggressive action against any of the three victims. The prosecution case was that being an armed sentry into whose custody the three prisoners of war had been committed, KOENEN was responsible for their safety and that in standing by, in accordance with the orders he had received from HYMER, and making no effort to intervene while the prisoners were being beaten by the civilians and finally thrown over the bridge, he made himself a party to the killing. In my opinion his conviction upon that footing was correct in law.

Nevertheless, he was undoubtedly in a very invidious position and you may perhaps feel that having already served three years of his sentence he has received sufficient punishment.

This is one of those cases which were tried in the very early days of War Crimes trials, when it appears that zeal occasionally outran discretion and there was a tendency to cast the net too wide and charge a number of accused against some of whom there was but little evidence.

/Kindly.....

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Kindly return the proceedings to me in due course.

RUSSELL OF LIVERPOOL,

Brigadier,
(RUSSELL OF LIVERPOOL),
D.J.A.G.

Boft/JMB